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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2011-337*

11 **JUDITH ANN MUELLER**

12 **1435 N. 52nd Street**
13 **Milwaukee, WI 53208**

14 **Registered Nurse License No. 227858**

15 Respondent.

A C C U S A T I O N

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about September 30, 1972, the Board of Registered Nursing issued Registered
23 Nurse License Number 227858 to Judith Ann Mueller ("Respondent"). The Registered Nurse
24 License expired on June 30, 2010 and has not been renewed.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
27 Department of Consumer Affairs, under the authority of the following laws:
28

1 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
2 part, that the Board may discipline any licensee, including a licensee holding a temporary or
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
4 Nursing Practice Act.

5 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
7 licensee or to render a decision imposing discipline on the license. Under Code section 2811,
8 subdivision (b), the Board may renew an expired license at any time within eight years after the
9 expiration.

10 6. Section 2761 of the Code, which is part of Article 3 of the Nursing Practice Act,
11 provides, in pertinent part:

12 "The board may take disciplinary action against a certified or licensed nurse or deny an
13 application for a certificate or license for any of the following:

14 (a) Unprofessional conduct, which includes, but is not limited to, the following:

15 (1) Incompetence, or gross negligence in carrying out usual certified or licensed
16 nursing functions.

17 ...

18 (4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary
19 action against a health care professional license or certificate by another state or territory of
20 the United States, by any other government agency, or by another California health care
21 professional licensing board. A certified copy of the decision or judgment shall be
22 conclusive evidence of that action...."

23 7. Section 2762 of the Code provides, in pertinent part:

24 "In addition to other acts constituting unprofessional conduct within the meaning of this
25 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
26 chapter to do any of the following:

27 ...

1 (b) Use any controlled substance as defined in Division 10 (commencing with Section
2 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
3 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
4 himself or herself, any other person, or the public or to the extent that such use impairs his or her
5 ability to conduct with safety to the public the practice authorized by his or her license."

6 **COST RECOVERY**

7 8. Section 125.3 of the Code provides, in pertinent part, that the Board, Registrar, or
8 Director may request the administrative law judge to direct a licentiate found to have committed a
9 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
10 investigation and enforcement of the case.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Disciplinary Action by the Wisconsin State Board of Nursing)**

13 9. Respondent is subject to disciplinary action under Section 2761 subdivision (a)(4)
14 because the Wisconsin State Board of Nursing ("Wisconsin Board") suspended her license to
15 practice nursing in Wisconsin. The circumstances of the Wisconsin Board's disciplinary action
16 are as follows:

17 10. On or about July 23, 2009, pursuant to a Final Decision and Order in the disciplinary
18 matter entitled, *In the Matter of the Disciplinary Proceeding Against Judith A. Mueller, R.N.*, the
19 Wisconsin Board suspended Respondent's Wisconsin nursing license for five years, staying the
20 suspension if Respondent complied with a number of conditions relating to alcohol and drug
21 abuse treatment. This stayed suspension constituted disciplinary action by the Wisconsin Board.

22 11. In its Final Decision and Order, and an accompanying stipulation, the Wisconsin
23 Board found, and Respondent admitted, that Respondent had abused alcohol to the extent it
24 impaired her ability to safely and reliably practice nursing. The circumstances of the Wisconsin
25 Board's disciplinary action are as follows:

- 26 a. On or about March 14, 2009, while working as a registered nurse at Froedtert
27 Hospital in Milwaukee, Wisconsin, Respondent became light-headed and
28 hypotensive. Respondent was taken to the emergency room, where her blood

1 alcohol concentration was tested and found to be .19, considerably above the legal
2 limit for intoxication, even though she had been working for several hours.
3 Respondent admitted she had been drinking the previous evening and that
4 morning. She also admitted to emergency room staff that she drank five to six
5 alcoholic drinks per day, even though she was on antidepressants and pain
6 medication for other conditions and had a history of renal failure. Respondent
7 stated, at the time, she did not believe she had a problem with alcohol.

8 b. Respondent subsequently admitted to staff of the Wisconsin Board that she had a
9 problem with alcohol.

10 12. Respondent stipulated to the suspension of her license by the Wisconsin Board. This
11 suspension was stayed pending Respondent's compliance with the Board's conditions, which
12 included requiring Respondent to participate in a drug and alcohol treatment program; to attend
13 Alcoholics Anonymous meetings, Narcotics Anonymous meetings, or both twice per week; to
14 abstain from alcohol or drug usage; to participate in weekly drug and alcohol testing programs;
15 and to refrain from working as a nurse in a setting where she had access to controlled substances.

16 13. Under Section 2761 subdivision (a)(4) of the Code, the stayed suspension of
17 Respondent's nursing license by Wisconsin is grounds for the California Board to take
18 disciplinary action.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct)**

21 14. By committing the acts set forth in particularity in paragraphs 9 through 13, above,
22 Respondent is subject to disciplinary action on the grounds of unprofessional conduct pursuant to
23 Section 2761 subdivision (a) of the Code, because she attempted to practiced nursing while
24 severely intoxicated, jeopardizing the health and safety of her patients.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Alcohol-Related Transgressions)**

27 15. By committing the acts set forth in particularity in paragraphs 9 through 13, above,
28 Respondent is subject to disciplinary action under Section 2762 of the Code. By her own

1 admission, while working at Froedtert Hospital, Respondent violated Section 2762 subdivision
2 (b) by drinking prior to coming to work, impairing her ability to conduct with safety her nursing
3 practice.

4 **PRAYER**

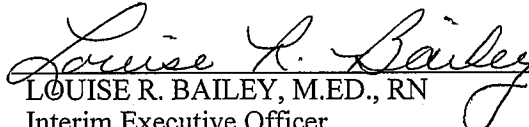
5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Board of Registered Nursing issue a decision:

7 1. Revoking or suspending Registered Nurse License Number 227858, issued to Judith
8 Ann Mueller;

9 2. Ordering Judith Ann Mueller to pay the Board of Registered Nursing the reasonable
10 costs of the investigation and enforcement of this case, pursuant to Business and Professions
11 Code Section 125.3;

12 3. Taking such other and further action as deemed necessary and proper.

13
14
15 DATED: October 14, 2010


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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